

18 U.S.C. § 371
Conspiracy To Defraud United States
Impede And Impair I.R.S. -- Klein Conspiracy

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE _____ DISTRICT OF _____

UNITED STATES OF AMERICA)	
)	
v.)	No. _____
)	18 U.S.C., Sec 371
_____)	

The grand jury charges:

THE CONSPIRACY 1

1. From on or about [*insert beginning date*], the exact date being unknown to the Grand Jury, and continuing thereafter up to and including the date of this indictment **2**, in the _____ District of _____,

[*insert first defendant's name*],

[*insert second defendant's name*],

[*insert third defendant's name*],

defendants herein, did unlawfully, willfully, and knowingly conspire, combine, confederate, and agree together and with each other and with other individuals both known and unknown to the Grand Jury to defraud the United States for the purpose of impeding, impairing, obstructing, and defeating the lawful Government functions of the Internal Revenue Service of the Treasury Department in the ascertainment, computation, assessment, and collection of the revenue: to wit, income taxes [*or other relevant taxes, i.e., excise taxes*]. **3**

PARTIES, PERSONS AND ENTITIES

At all relevant times,

2. *[E.g., Defendants John Smith and Tom Smith were president and vice-president of Smith, Inc., a corporation, and each owned 50% of the stock of Smith, Inc.]*
3. *[E.g., Defendant Sam Jones was a certified public accountant who prepared the income tax returns of Smith, Inc., a corporation, and its officers.]*
4. *[E.g., Smith, Inc., was a Massachusetts corporation, formed in 1975 by defendant John Smith to market real estate limited partnerships.]*
5. *[Continue to describe all defendants and all persons and entities that are significant to an understanding of the conspiracy.]*

***MANNER AND MEANS BY WHICH THE
CONSPIRACY WAS CARRIED OUT***

The manner and means by which the conspiracy was sought to be accomplished included, among others, the following:

6. *[Describe manner or means, e.g., To divert corporate receipts to their own use, defendant John Smith presented false books and records to the corporate accountant for use in preparing the corporate income tax returns of Smith, Inc., for the calendar years 1988, 1989, and 1990.]*
7. *[E.g., By backdating documents so as to conceal from the Internal Revenue Service defendant John Smith's ownership and interest in real property.]*
8. *[E.g., By making false statements and representations to agents of the Internal Revenue Service for the purpose of concealing the interest of defendant John Smith in property, stock, etc.]*
9. *[Continue to describe general manner and means used to carry out the conspiracy.]* 4

OVERT ACTS

In furtherance of the conspiracy, and to effect the objects thereof, the following overt acts were committed in the _____ District of _____, and elsewhere:

10. [E.g., *On or about July 20, 1988, defendant Tom Smith and Jane Smith met in the offices of Smith Realty Co. at 33 Main Street, Boston, Massachusetts, and discussed how to backdate real estate contracts.*]

11. [E.g., *In or about the week of July 20, 1988, defendants John Smith and Tom Smith went to the A & B Bank in Boston, Massachusetts, and removed cash from the safe deposit box of defendant John Smith.*]

In violation of Title 18, United States Code, Section 371.

A True Bill.

Foreperson

United States Attorney

NOTES

1 It is suggested that the paragraphs of the indictment be numbered sequentially from beginning to end even though the indictment will have different sections. This will eliminate confusion when reference is made to a particular portion or paragraph of the indictment.

2 Substitute appropriate date if the conspiracy ended before the date of the indictment.

3 Strike the remaining portion of this paragraph beginning with the phrase "to defraud the United States" and substitute appropriate language if conspiracy is to commit a substantive offense. E.g., "to commit offenses against the United States: to wit, to violate Title 26, United States Code, Sections 7201 and 7206(1)."

4 When charging a *Klein* conspiracy (and not a conspiracy to commit a substantive offense), the means must include deceit, craft, and/or trickery, or at least means that are dishonest. *Hammerschmidt v. United States*, 265 U.S. 182, 188 (1924).